



ABC submission on the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023

August 2023

The Australian Broadcasting Corporation (ABC) welcomes the opportunity to comment on the *Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023* (Bill).

While the ABC understands it is intended that the ABC's services and content are excluded from the scope of the Bill, as the national public broadcaster and Australia's most trusted source of news and information, the ABC has an interest in ensuring that Australians can easily access accurate and impartial news and information across all news media organisations and platforms.

The challenges presented by the proliferation of disinformation and misinformation online has been documented in several recent reports and remain a cause for concern in the media ecosystem more generally, both locally and around the world.

The ABC welcomes the Australian Government's recognition that these issues are a cause for concern that requires policy attention, while also noting the need to balance other important public policy objectives such as protecting freedom of speech.

The ABC has engaged with several government consultation processes that seek to understand and address the challenges of disinformation and misinformation. In addition, the ABC has engaged in the consultation process on the Digital Industry Group Inc.'s (DIGI) Australian Code of Practice on Disinformation and Misinformation (ACPD) and subsequent review.

1. Design of the new framework

The ABC is supportive of the following propositions in shaping an appropriate policy framework to deal with misinformation and disinformation on digital platforms:

- (a) Digital platforms providers should adopt and continue to develop robust systems and measures to address misinformation and disinformation on their services.
- (b) A broad range of digital platforms should be encouraged to:
 - (i) adhere to an effective code of practice addressing misinformation and disinformation; and

- (ii) provide greater publicly available reporting on the volume and nature of misinformation and disinformation on their services, including Australia-specific data and subject matter categories, to enable more useful comparisons and a greater understanding of the nature and prevalence of misinformation and disinformation.
- (c) Definitions of misinformation, disinformation and excluded categories of content should be based on objective criteria and observable conduct, rather than any subjective intent of the disseminator (as in the proposed definition of “disinformation”) or creator of content (as in the excluded content category of “content produced in good faith for the purposes of entertainment, parody or satire”). Reliance on subjective criteria is likely to make it more difficult for digital platform providers to effectively operationalise the policy intent of reducing the proliferation of disinformation and misinformation online.
- (d) Digital platforms should have effective systems and complaints processes to deal with concerns about the presence of misinformation and disinformation on their services as well as any inadvertent removal or demotion of legitimate content.

2. Scope of excluded services

The ABC understands that its services, such as ABC iview and ABC listen, are not intended to fall within the scope of the Bill and the way this is intended to be achieved is via certain “media sharing services” being excluded from Parts 2 and 3 of proposed new Schedule 9 to the *Broadcasting Services Act 1992 (BSA)*. The Guidance Note accompanying the Bill indicates that media sharing services intended to be excluded from the Bill include broadcast video-on-demand services and subscription video-on-demand services.

If that is the policy intention, the ABC submits that the Bill requires further clarification in respect of the exclusion of media sharing services provided by the ABC and other similar media organisations that subscribe to editorial rules or standards of the kind proposed for the Bill’s definition of “professional news content”. The existence of an interactive feature on those services, such as the ability to “like” a piece of content, should not result in those services being included within the scope of the Bill.

3. Scope of information-gathering powers

The Bill proposes broad information-gathering powers for the ACMA, including the ability to seek information and documents not only from digital service providers but also from other persons.

The information-gathering powers in the Bill should be subject to similar limitations as those under Part 13 of the BSA, which apply in relation to the ACMA’s broadcasting, content and datacasting functions. Most notably, Part 13 of the BSA provides for the protection of journalists’ sources. Equivalent protections for journalists’ sources should also be provided in respect of the information-gathering powers in the Bill.